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IN THE HON'BLE COURT OF  
JUDICIAL MAGISTRATE OF SINDUSTAN

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MRS. VIMLADEVI.....APPLICANT

*VERSUS*

MR. HARI LAL.....RESPONDENT

ON SUBMISSION TO THE COURT OF JUDICIAL MAGISTRATE OF SINDUSTAN

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MOST RESPECTFULLY SUBMITTED

COUNSELS APPEARING ON BEHALF OF MR. HARI LAL

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WRITTEN SUBMISSION ON BEHALF OF RESPONDENT

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2.	The Constitution of India, 1949
3.	The Indian Evidence Act, 1872
4.	The Code of Criminal Procedure, 1973
5.	The Punjab Panchayati Raj Act, 1994
6.	Hindu Adoption and Maintenance Act, 1956
7.	The Limitation Act, 1963

#### TABLE OF ABBREVIATIONS AND SYMBOLS

ABBREVIATION	DEFINITION
@	Alias
AIR	All India Reporter
Anr.	Others
Art.	Article
CEDAW	Convention on the Elimination of all Forms of Discrimination against Women
CrLJ	Criminal Law Journal
Ed.	Edition
HC	The High Court
Hon'ble	Honourable
i.e.	that is
ILR	Indian Law Reporter
Ltd.	Limited
No.	Number
Ors.	Others
P.	Page
Pb.	Publication
S.	Section
SC	The Supreme Court of India
SCC	Supreme Court Cases
SCR	Supreme Court Reporter
ss.	Sections
The CrPC	The Code of Criminal Procedure, 1973

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The IE Act	The Indian Evidence Act, 1872
The IPC	The Indian Penal Code, 1860
The PWD Act	The Protection of Women from Domestic Violence Act, 2005
u/s	Under Section
UK	The United Kingdom of Great Britain
UOI	The Union of India
V.	Versus
Vol.	Volume

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**STATEMENT OF JURISDICTION**

The Hon'ble Court Judicial Magistrate of Sindustan is empowered to hear this case by the virtue of Section 27 of Protection of Women from Domestic Violence Act, 2005.

The Section reads as:

*(1) The court of Judicial Magistrate of the first class or the Metropolitan Magistrate, as the case may be, within the local limits of which-*

*(a) the person aggrieved permanently or temporarily resides or carries on business or is employed; or*

*(b) the respondent resides or carries on business or is employed; or*

*(c) the cause of action has arisen,*

*shall be the competent court to grant a protection order and other orders under this Act and to try offences under this Act.*

*(2) Any order made under this Act shall be enforceable throughout India.*

Also, Section- 11 empowers this Hon'ble Court to hear the case and grant relief under the Protection of Women from Domestic Violence Act, 2005.

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**STATEMENT OF FACTS**

HariLal married Vimla Devi in 1983. After marriage Vimla Devi went to her matrimonial house in Bhimpur village which was HariLal's father's house. Gradually, HariLal began to neglect Vimla Devi and began to demand dowry. There was no warmth in the marriage and physical violence against Vimla Devi at hands of HariLal became a routine. During her pregnancy, she was sent to her parent's house and gave birth to a girl child "Dolly" on 22nd March 1986. When the child was two months old, father and brother of Vimla, brought her to the house of HariLal. The father-in-law of Vimla, Ramesh Chand allowed her to stay in his house, however, the incidents of ill-treatment, verbal, physical and emotional abuse at the hands of HariLal aggravated. Soon, she was driven out by HariLal alleging that Dolly was not his child. In 1994 Hari moved the Court under the Guardianship and Wards Act, seeking that the custody of Dolly be handed over to him. The action was contested by Vimla, who was able to substantiate that she was in a better position to take care of Dolly and fulfilling her basic requirements. She admitted in the court that she did not have enough source of income to support the education of her daughter on her own. In the year 1997 Vimla moved an application before the concerned Gram Panchayat of Bhimpur for provision of maintenance for herself and her daughter. The concerned Gram Panchayat, ordered Hari to pay a maintenance of Rs. 500/- per month to the Applicant/Vimla. Not even a single payment was made by him as per this order. Vimla and her daughter had been struck off from the local registers (family registers, ration cards, etc). Hari, who was working as a government servant and earning a monthly salary of about Rs. 30,000, had moved out of the joint family house and constructed a new house in Bhimpur. In the year 2010 when Dolly had already completed her education at the college level, Vimla initiated an action against Hari under the Protection of Women from Domestic Violence Act, 2005, praying that she was 'aggrieved person' within the definition of this expression under the Domestic Violence Act, 2005. She has prayed that the respondent be directed to allow Vimla and her daughter to live with him in his present residence, while ordering him not to commit any further acts of domestic violence against either of them. She has also prayed that the stridhana, that she had left in her matrimonial home in 1985, be restored to her and her daughter should be provided share in property. Monetary relief and compensation has also been prayed for. The respondent was able to prove to the ordered deletion of the name of Vimla from the list of people Below Poverty Line, of the concerned area.

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**ISSUES RAISED****ISSUE A: WHETHER THE INSTANT CASE IS BARRED BY LIMITATION?**

1. THAT THE FACTS OF THE CASE REQUIRE CAREFUL PERUSAL.
2. THAT THE APPLICANT'S CONDUCT MANIFESTS AN ULTERIOR MOTIVE.
3. THAT THE BURDEN TO EXPLAIN INORDINATE DELAY RESTS ON THE APPLICANT.
4. THAT THE APPLICANT HAS FAILED TO SATISFACTORILY EXPLAIN THE DELAY .

**ISSUE B: WHETHER THE APPLICANT IS BOUND BY THE RULE OF ESTOPPEL?****ISSUE C: WHETHER A *PRIMA FACIE* CASE IS MADE OUT AGAINST THE RESPONDENT?**

1. THAT THE CONDUCT OF THE RESPONDENT SPEAKS VOLUMES ABOUT HIM BEING VICTIMIZED IN THE INSTANT CASE.
2. THAT THE APPLICANT CANNOT TAKE ADVANTAGE OF HER OWN WRONG.

**ISSUE D: WHETHER THE RELIEFS PRAYED FOR ARE MAINTAINABLE?**

1. THAT A PROTECTION ORDER IS NOT MAINTAINABLE.
2. THAT A RESIDENCE ORDER IS NOT MAINTAINABLE .
3. THAT THE PLEA FOR MONETARY RELIEF IS NOT TENABLE.
4. THAT THE PLEA FOR COMPENSATION IS NOT TENABLE.
5. THAT THE PLEA FOR RETURN OF *STRIDHANA* IS NOT TENABLE.
6. THAT THE PLEA FOR SHARE IN PROPERTY IS NOT TENABLE.

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**SUMMARY OF ARGUMENTS****ISSUE A: WHETHER THE INSTANT CASE IS BARRED BY LIMITATION?**

It is a settled canon of law that as far as the limitation is concerned, no doubt provisions of Limitation Act are not applicable to the proceedings, yet if there is an abnormal delay and inordinate delay in bringing the matter before this Hon'ble Court, in this case over 20 years, the Applicant should not be allowed to file this case and should be barred by limitation. Also, in the instant case, the Applicant failed to describe the "*Sufficient Cause*" as held by the Apex Court in its galaxy of precedents. Therefore, the Applicant should be barred by limitation from invoking the jurisdiction of this Hon'ble Court.

**ISSUE B: WHETHER THE APPLICANT IS BOUND BY THE RULE OF ESTOPPEL?**

The Rule of Estoppel in the instant case applies to the Applicant as she, herself, as her conduct shows, left the house of the Respondent and took away 'Dolly' with her. Her conduct clearly manifests that she is living a normal life as she also, admitted that she is in a better position to take care of herself and the child and also, no efforts of reconciliation or restitution were made by her even though the Respondent accepted her back when she came for the marriage function in 1990. This fact clearly shows that the Respondent with a *bona fide* intention wanted to live with the Respondent and 'Dolly' whereas the Applicant never wanted the same. Now, at such a belated stage, the Applicant should be Estopped from changing her stand and therefore, filing the instant case.

**ISSUE C: WHETHER A *PRIMA FACIE* CASE IS MADE OUT AGAINST THE RESPONDENT?**

The pre-requisite of admitting a case under PWD Act, 2005 is that the Applicant should be an "Aggrieved Person" as per S. 2(a) of the Act. But, the conduct of the Applicant and Respondent clearly shows that the Applicant has filed this case with the sole intention of harassing the Respondent. Also, the Applicant's standard of living clearly established the fact that she is in no need of any of the reliefs prayed for. Also, the Applicant deserted the Respondent and now she should not be allowed to plead such reliefs. She is not an aggrieved person under this Act and therefore, no *prima facie* case is made out against the Respondent.

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**ISSUE D: WHETHER THE RELIEFS PRAYED FOR ARE MAINTAINABLE?**

The Respondent humbly submits that the reliefs prayed for are not maintainable. A protection order is not maintainable in the absence of a prima facie case. A residence order must not be granted as the Applicant intends to unduly obtain a share in the property through the same. An order for maintenance and compensation is not tenable as the Applicant is able to maintain herself and has also not suffered from monetary losses on account of domestic violence. Further, an order for return of stridhan and share in property is wholly unwarranted.

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**PLEADINGS****ISSUE A: WHETHER THE INSTANT CASE IS BARRED BY LIMITATION?**

It is submitted by the Respondent that the instant case is barred by limitation in view of the following-

**1. THAT THE FACTS OF THE CASE REQUIRE CAREFUL PERUSAL**

Even in the absence of applicability of laws regarding limitation, the court must take into consideration the facts and circumstances of any inordinate delay in initiation of proceedings.<sup>1</sup> Such consideration acts as a necessary safeguard against possible abuse of the process of court. Access to justice should also not be used as a license to file misconceived and frivolous petitions.<sup>2</sup> The provisions of the PWD Act are open to easy misuses and may be resorted for self-aggrandizement and for obtaining an unfair advantage over the adversary.<sup>3</sup> The facts of the case must be carefully perused to prevent injustice to the Respondent.

**2. THAT THE APPLICANT'S CONDUCT MANIFESTS AN ULTERIOR MOTIVE**

In the absence of any period of limitation prescribed in the statute, the court may consider the conduct of the Applicant for appreciating the involved facts and issues.<sup>4</sup> Such a perusal enables the court to dismiss applications invoked only to abuse the process of the court by obtaining unfair advantage of lack of limitation. Further, three differing reasons support the existence of statutes of limitations namely, (1) that long dormant claims have more of cruelty than justice in them, (2) that a defendant might have lost the evidence to disprove a stale claim, and (3) that persons with good causes of actions should pursue them with reasonable diligence.<sup>5</sup> An unlimited limitation leads to a sense of insecurity and uncertainty, and therefore, limitation prevents disturbance.<sup>6</sup>

Further, the "*Vigilantibus Non Dormientibus Jura Subveniunt*" which means "Law assists those who are vigilant and not those who sleep over their rights" is a pristine maxim, which

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<sup>1</sup> Shri A.P. Jain versus M/s. Faridabad Metal Udyog (2006) BC 262.

<sup>2</sup> Dr. Buddhi Kota Subbarao v. K. Parasaran AIR 1996 SC 2687.

<sup>3</sup> Sunitha v. State of Kerala CrI.Rev.Pet.No. 461 of 2010.

<sup>4</sup> Chandrakala Bai vs Bhagwan Singh 2003 (2) ALD Cri 10.

<sup>5</sup> Halsbury's Laws of England, Vol. 24, p. 181. See also Basawaraj & Anr. v. The Spl. Land Acquisition Officer Civil Appeal No. 6974 of 2013.

<sup>6</sup> Popat and Kotecha Property v. State Bank of India Staff Assn. (2005) 7 SCC 510; See. Rajendar Singh & Ors. v. Santa Singh & Ors., AIR 1973 SC 2537; and Pundlik Jalam Patil v. Executive Engineer, Jalgaon Medium Project, (2008) 17 SCC 448.

applies to the limitation and in the instant case the Applicant remained dormant over exercise of her rights and as per a settled canon of law the Applicant should not be allowed to invoke the jurisdiction of this Hon'ble Court at such a belated stage.<sup>7</sup>

It is submitted that the Applicant is an Anganwari worker capable of fulfilling the needs of herself and her daughter.<sup>8</sup> She has also been able to provide her daughter education up to the college level. Her conduct in the past over 20 years shows that she was content and has failed to approach this Hon'ble Court within a reasonable time. The Applicant remained dormant over exercise of her rights and has only after an unreasonable and unexplained delay invoked the jurisdiction of this Hon'ble Court.

Despite being in a position to file a case at a much earlier stage, the Applicant has purposely filed this case with a *mala fide* intention to harass the Respondent. The demand for share in property clearly indicates her ulterior motive behind filing of the suit. The Applicant, in the false garb of a victim, seeks to unduly obtain share in the property of the Respondent. Such a resort is intended by misusing the liberal provisions of the Act. The Applicant cannot be allowed to abuse or misuse the said liberal approach of the Courts.<sup>9</sup> Liberal approach of the Court cannot be stretched to an extent as to make the law redundant and futile.<sup>10</sup> Further, The delays and latches in the instant case are deliberate and the Respondent must not be allowed to obtain unfair advantage of the liberal approach to limitation.

### **3. THAT THE BURDEN TO EXPLAIN INORDINATE DELAY RESTS ON THE APPLICANT**

To obtain an order of maintenance u/s 125, the CrPC the Applicant is required to satisfactorily explain the delay in filing of the suit.<sup>11</sup> The initial burden to explain inordinate delays rests on her. A delay in obtaining legal recourse may prove fatal to the claims of the wife.<sup>12</sup> Such a delay casts a reasonable doubt on the veracity of her claims. Further, reliefs envisaged in the PWD Act are expeditious in nature and aimed at affording speedy remedies.<sup>13</sup> The power to grant such reliefs is discretionary and may be exercised only with judicial caution. The Magistrate, in exercise of such discretion, may, on failure to cogently

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<sup>7</sup> Navinchandra N. Majithia vs State Of Maharashtra & Ors; *See also* M/S Delhi Airtech Services Pvt. v. State Of U.P. & Anr. on 18 August, 2011.

<sup>8</sup> Para 2, Factsript.

<sup>9</sup> Jangir Singh v. Prem Motors, 2000(3) Civil Court Cases 491 (P&H).

<sup>10</sup> Malkiat Singh v. Joginder Singh, 1998(2) Civil Court Cases 83 (SC) : 1998 (1) Apex Court Journal 211 (SC).

<sup>11</sup> D.Velusamy vs D.Patchaiammal 2273-2274/2010

<sup>12</sup> Chandrakala Bai vs Bhagwan Singh 2003 (2) ALD Cri 10

<sup>13</sup> Statement of Objects and Reasons, the PWD Act.

explain any inordinate delay, refuse to grant any instant relief.<sup>14</sup> The Applicant must initially discharge the burden to fully explain the inordinate delay in filing of the suit. The alleged acts of domestic violence were committed nearly three decades prior to this claim. The onus to fully satisfy the court regarding her delay in obtaining legal recourse during this period fully rests on her.

#### 4. THAT THE APPLICANT HAS FAILED TO SATISFACTORILY EXPLAIN THE DELAY

The instant case lacks any period of limitation prescribed by law, therefore, the Apex Court in its various judgments has iterated that in such cases, unreasonable and unexplained delay must only be condoned on production of a 'sufficient cause'.<sup>15</sup> In this context, "sufficient cause" means that the party should not have acted in a negligent manner and there must not be a want of bona fide on its part.<sup>16</sup> . In case a party is found to be negligent, or for want of *bona fide* on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay.<sup>17</sup> 'Sufficient cause' can only be decided according to the facts of the case and a straitjacket formula may not be invented.<sup>18</sup>

In the instant case, the Applicant remained dormant over exercise of her rights for nearly three decades only to enforce them with a mala fide intention of harassment to the Respondent. The Applicant has failed in this entire period to either enforce her rights or to obtain legal recourse against the Respondent. Her failure to approach the requisite investigative agency further casts a doubt on her offered narrative regarding acts of domestic violence. Nothing prevented the Applicant from approaching the correct legal forum. The Applicant cannot take the advantage of sleeping over his own rights<sup>19</sup> and vitiating the process of law and the procedure established by law.

In view of the aforesaid arguments, the Respondent humbly pleads that the Applicant be barred from instituting the application.

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<sup>14</sup> Kuntibai vs Alakhram I (1999) DMC 660

<sup>15</sup> Arjun Singh v. Mohindra Kumar, AIR 1964 SC 993

<sup>16</sup> Manindra Land and Building Corporation Ltd. v. Bhootnath Banerjee & Ors., AIR 1964 SC 1336; *see also* Lala Matadin v. A. Narayanan, AIR 1970 SC 1953; Parimal v. Veena @ Bharti AIR 2011 SC 1150; and Maniben Devraj Shah v. Municipal Corporation of Brihan Mumbai AIR 2012 SC 1629

<sup>17</sup> Basawaraj & Anr vs Spl.Laq Officer 6975 of 2013

<sup>18</sup> Madanlal v. Shyamlal, AIR 2002 SC 100; and Ram Nath Sao @ Ram Nath Sahu & Ors. v. Gobardhan Sao & Ors., AIR 2002 SC 1201

<sup>19</sup> The State of Rajasthan and Another Vs. M/s. Karamchand Thappar and Bros., AIR 1965 SC 913

**ISSUE B: WHETHER THE APPLICANT IS BOUND BY THE RULE OF ESTOPPEL?**

It is humbly submitted that, the Applicant is bound by the application of the rule ‘estoppel by conduct’.

Estoppel is a mechanism for enforcing consistency<sup>20</sup>. Estoppel is a private law principle which prevents a person who has led another to believe in a particular state of affairs from going back on the words or conduct which has led to that belief when it would be unjust or inequitable for him to do so; the first person is estopped from going back on the statement, promise or assurance he has made<sup>21</sup>. In legal terms, an estoppel has been described as an impediment or bar to a right of action arising from a man’s own act<sup>22</sup>. The doctrine of estoppel is an established law<sup>23</sup>.

The IE Act defines ‘estoppel’ as, “When one person has, by his declaration, act or omission, intentionally caused or permitted another person to believe a thing to be true and to act upon such belief, neither he nor his representative shall be allowed, in any suit or proceeding between himself and such person or his representative, to deny the truth of that thing...”<sup>24</sup>

Estoppel by conduct is, when a person by word or conduct induces another that a certain state of things exists, and to cause that other to act on that belief in a way he would not have done had he known the facts<sup>25</sup>. Estoppel by conduct in modern times stands elucidated with the decisions of the English Courts in *Pickard v. Sears*<sup>26</sup> and its gradual elaboration until placement of its true principles by the Privy Council in the case of *Sarat Chunder Dey v. Gopal Chunder Laha*<sup>27</sup> whereas earlier Lord Esher in the case of *Seton, Laing Co. v. Lafone*<sup>28</sup>. Estoppel by conduct has also been explained in the case of *Venkata Swamy Naidu vs. Sornammal*<sup>29</sup>.

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<sup>20</sup>E Cooke, *The Modern Law of Estoppel*, Oxford University Press, 2000, pp.1-2

<sup>21</sup>Halsbury’s *Law of England : Estoppel*, 951; also see *Administrative Law*, S.H. Bailey, Fourth Edition

<sup>22</sup>*Contract Law*, Ewan McKendrick, Fifth Edition, pg.213

<sup>23</sup>*See*, *Combe v. Combe*, [1951]2 KB 215; *Hughes vs. Metropolitan Railway Ltd*, [1877] 2 App Cas 439; *Central London Property Trust Ltd. Vs. High Trees House Ltd.*, [1947] 1 KB 130, *Grundt v Great Boulder Pty Gold Mines Ltd* (1937) 59 CLR 641

<sup>24</sup>S.115 The IE Act, 1872

<sup>25</sup>*Ratanlal and Dhirajlal, “The Law of Evidence,”* (23<sup>rd</sup> enlarged ed. 2010)

<sup>26</sup>1837: 6Ad. & El. 469

<sup>27</sup>1898 L.R. 19 I.A.203

<sup>28</sup>1887: 19, Q.B.D.68

<sup>29</sup>ILR(1970) 1 Mad 336

In the present case, the contention brought before the court by the applicant is that Smt. Vimla is an 'aggrieved person'. However the Counsel pleads the contrary.

The applicant has secured a job at the Anganwadi and it has been established before the Court during the suit for custody that, she is able enough to fulfil the needs for herself and her child. Also, 'Dolly' has completed her education at the college level therefore, it is well established that the Applicant was well able to keep and construct a good life for her daughter and has the economic resources to provide for herself.

Further, the Applicant has been living separate from the Respondent and in-laws for a considerable amount of time. She moved an application for maintenance before a Gram Panchayat however, no action of recovery of claim for the maintenance or any other complaint were made. The Applicant made no attempt to reconcile with the respondent or procure financial aid at any point for almost 13yrs thereafter. By the actions of the Applicant, it can be drawn that, the Respondent presumed that the Applicant did not have any further interest in the family or reconciliation or even the respondent's need in her life.

It is brought to light from the facts that, had the applicant actually been facing an economic abuse or deprivation of residence with the respondent due to the domestic violence allegedly suffered, she would have taken some action in furtherance to such claim. However, the applicant showed at no instance the urgency or desperation in the need of economic support or residence in the shared household. Thus she is not an 'aggrieved person' and such representation created by the Applicant, makes her bound by the rule of 'estoppel by conduct'.<sup>30</sup>

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<sup>30</sup>Smt. MamtaAwasthy&Ors.Vs. Ajay Kumar Shrivastava, AIR2011MP166; *see also* Shiba @ PurnaSahoo and @ Purna Chandra SahooVs. Smt. NishamaniSahoo and two others, 2011(Supp. I)OLR981; P.V. SubbaRao and others Vrs. V. JagadanandaRao, A.I.R. 1967 S.C. 591

**ISSUE C: WHETHER A *PRIMA FACIE* CASE IS MADE OUT AGAINST THE RESPONDENT?**

It is submitted by the Respondent that no *prima facie* case is made out as the reliefs asked by the Applicant are beyond the scope of the PWD Act.

It is a matter of fact that the Applicant and Respondent got married in 1983. ‘Dolly’ was born out of the wedlock on 22<sup>nd</sup> March 1986. The Applicant was residing with the Respondent in the house of the Respondent’s father.

The Respondent accepts that there were marital/adjusting issues in the beginning, which any newly married couple would have had. The Apex Court in its galaxy of precedents has also accepted the same. But, the rest of the contention of the Applicant is denied in *toto* as it’s false and lacks an ounce of truthfulness. The Respondent wanted the marriage to work and had always put in efforts for the same. Also, the Respondent never drove out the Applicant as has been alleged by her, instead it was the Applicant who deserted the Respondent. The Respondent has always wanted to be with his daughter and the Applicant. This fact can be proved by the conduct of the Respondent as has been listed below:

**1. THAT THE CONDUCT OF THE RESPONDENT SPEAKS VOLUMES ABOUT HIM BEING VICTIMIZED IN THE INSTANT CASE.**

The Respondent submits the following before the Hon’ble Court—

1. The Respondent even though being deserted by the Applicant, filed a case for the custody of the daughter under the Guardianship and Wards Act, 1890.
2. When the Applicant returned finally to attend the marriage function in 1990 with Respondent, the Respondent happily let her attend the same with him.<sup>31</sup>
3. The Respondent is also a government servant, who would never want to indulge in activities of violence as has been alleged by the Applicant, as the same would affect his career.
4. The Applicant further got herself and ‘Dolly’ registered at her place of residence after separating. The documents have already been brought on record by the Applicant herself.<sup>32</sup>

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<sup>31</sup> Para 2 Factcript.

<sup>32</sup> Para 4 Factscript.

5. The Respondent never asked the Applicant to leave the house.

The Applicant refused to live with the Respondent without any just cause. The Applicant deserted the Respondent and took the daughter with her.

It is submitted that the Respondent never refused to take care of the Applicant and is still ready to accept his family. There was no sufficient reason for the Applicant to desert her husband/Respondent<sup>33</sup>.

It is apposite to mention that for a person to invoke the protection of PWD Act, 2005, the woman has to be an “Aggrieved Person” as per S.2(a) of the Act. As per the said section, the woman has to be subjected to “Domestic Violence” (defined under S.3 of PWD Act, 2005).

The bare perusal of the aforesaid mentioned section, states that there has to be some harm, harassment, conduct on the part of the Respondent which causes any kind of abuse to the woman, whether physical, sexual, verbal or economic. It is pertinent to mention here that the Applicant in the garb of being an Aggrieved Person who has not been subjected to any of the above-mentioned harassments has filed this false and frivolous case with the *mala fide* intention to harass the Respondent. Also, taking the shelter of the PWD Act, 2005 is highly condemnable as the Applicant herself deserted the Respondent.<sup>34</sup> The life of the Respondent cannot be handed over to the whims and fancies of the Applicant.

## **2. THAT THE APPLICANT CANNOT TAKE ADVANTAGE OF HER OWN WRONGS<sup>35</sup>**

It is a settled position of law that the Applicants who base their case and facts on fraud<sup>36</sup>, misrepresentation, concealing material facts<sup>37</sup> and misguide the Hon’ble Court should not be given the protection of the procedure established by law. The Hon’ble Apex Court in its galaxy of judgments<sup>38</sup> has again and again emphasized on how fraud vitiates the whole proceedings<sup>39</sup> -“Fraud avoids all judicial acts, ecclesiastical or temporal”<sup>40</sup>, “Equity is, also, known to prevent the law from the crafty evasions and subtleties invented to evade

<sup>33</sup> Smt. Archana Gupta & Anr v. Sri Rajeev Gupta & Another Criminal Revision No. 201 Of 2006.

<sup>34</sup> Mammad Kunhi vs. Rukhiya 1978 CriLJ 1645.

<sup>35</sup> ONGC Ltd. v. M/s. Modern Construction and Co. Civil Appeal Nos. 8957-8958 of 2013.

<sup>36</sup> R. Radhakrishnan v. Director General of Police & Ors., AIR 2008 SC 578.

<sup>37</sup> Secretary, Department of Home, A.P. & Ors., v. B. Chinnam Naidu, (2005) 2 SCC 746.

<sup>38</sup> Devendra Kumar v. State OF Uttaranchal & Ors. 2013 STPL(Web) 608 SC.

<sup>39</sup> State of Haryana & Ors. v. Dinesh Kumar, AIR 2008 SC 1083.

<sup>40</sup> S.P. Chengalvaraya Naidu (Dead) by LRs. v. Jagannath (Dead) by LRs. & Ors., AIR 1994 SC 853; See also Lazarus Estate Ltd. v. Besalay, 1956 All E.R. 349.

law”<sup>41</sup>, “Fraud and collusion vitiate even the most solemn proceedings in any civilized system of jurisprudence. It is a concept descriptive of human conduct”<sup>42</sup>, “Fraud and justice never dwell together” (*fraus et jus nunquam cohabitant*)<sup>43</sup> and “misrepresentation itself amounts to fraud”<sup>44</sup>.

In the instant case, the Applicant is not an ‘Aggrieved person’ and she herself deserted the Respondent and she should not be allowed to take advantage of her own deliberate wrongs<sup>45</sup>. The Apex Court has with it plethora of cases have guided us that such false and frivolous cases should not be entertained by the Courts.

It is a fraud in law if a party makes representations, which he knows to be false, and injury ensues therefrom although the motive from which the representations proceeded may not have been bad.<sup>46</sup> The ratio laid down by the Hon’ble Supreme Court in various cases is that dishonesty should not be permitted to bear the fruit and benefit those persons who have frauded or misrepresented themselves. In such circumstances the Court should not perpetuate the fraud by entertaining petitions on their behalf.<sup>47</sup> More so, if the initial action is not in consonance with law, the subsequent conduct of a party cannot sanctify the same. “*Subla Fundamento cedit opus*”- a foundation being removed, the superstructure falls. A person having done wrong cannot take advantage of his own wrong and plead bar of any law to frustrate the lawful trial by a competent Court. In such a case the legal maxim *Nullus Commodum Capere Potest De Injuria Sua Propria* applies. The persons violating the law cannot be permitted to urge that their offence cannot be subjected to inquiry, trial or investigation. Nor can a person claim any right arising out of his own wrong doing<sup>48</sup>. (*Juri Ex*

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<sup>41</sup> Andhra Pradesh State Financial Corporation v. M/s. GAR Re- Rolling Mills & Anr., AIR 1994 SC 2151; See also State of Maharashtra & Ors. v. Prabhu, (1994) 2 SCC 481.

<sup>42</sup> Smt. Shrisht Dhawan v. M/s. Shaw Bros., AIR 1992 SC 1555

<sup>43</sup> United India Insurance Company Ltd. v. Rajendra Singh & Ors., AIR 2000 SC 1165; See also M.P. Mittal v. State of Haryana & Ors., AIR 1984 SC 1888.

<sup>44</sup> Ram Chandra Singh v. Savitri Devi & Ors., AIR 2004 SC 4096.

<sup>45</sup> D Wadhwa Rohtash Singh vs Smt. Ramendri & Ors. on 2/3/2000.

<sup>46</sup> Vice-Chairman, Kendriya Vidyalaya Sangathan & Anr. v. Girdharilal Yadav, (2004) 6 SCC 325).

<sup>47</sup> Union of India & Ors. v. M. Bhaskaran, AIR 1996 SC 686; See also District Collector & Chairman, Vizianagaram Social Welfare Residential School Society v. M. Tripura Sundari Devi, (1990) 3 SCC 655; Chief Secretary & Ors. v. Sushil Kumar, (1996) 11 SCC 605; Kendriya Vidyalaya Sangathan v. Ram Ratan Yadav, AIR 2003 SC 1709; and A.P. Public Service Commission v. Koneti Venkateswarulu, AIR 2005 SC 4292.

<sup>48</sup> Bhartiya Seva Samaj Trust Tr. Pres. & Anr. v. Yogeshbhai Ambalal Patel & Anr., AIR 2012 SC 3285.

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*Injuria Non Oritur*).<sup>49</sup>

Since, the pre-requisite of entertaining a case by the Hon'ble Court is that a *prima facie* case be made out in favour of the Applicant<sup>50</sup> and it is manifestly clear that the Applicant is not an 'Aggrieved person' under the PWD Act, 2005. She should therefore not be allowed to take undue advantage of the Act.

The present case is liable to be dismissed.

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<sup>49</sup> Union of India v. Maj. Gen. Madan Lal Yadav, AIR 1996 SC 1340; *See also* Lily Thomas v. Union of India & Ors., AIR 2000 SC 1650).

<sup>50</sup> Kamal Vaswani & Anr. vs. Smt. Jaidevi Vaswani MP HC; Vishal Damodar Patil vs. Vishakha Damoda Patil Bom HC; Dennison Paulraj & Ors. vs. Mrs. Mayawinola Mad HC.

**ISSUE D: WHETHER THE RELIEFS PRAYED FOR ARE MAINTAINABLE?**

It is most humbly submitted that the reliefs prayed for are not maintainable.

**1. THAT A PROTECTION ORDER IS NOT MAINTAINABLE**

S. 18 of the Act empowers the Magistrate to pass a protection order after perusing the submissions of the parties to the suit and on being prima facie satisfied that domestic violence has taken place or is likely to take place.<sup>51</sup> On perusal, two things are required before passing an order in favour of the aggrieved person; (1) opportunity of hearing to the parties, and (2) on being prima facie satisfied with regard to happening of the domestic violence or likely to happen thereof. For being prima facie satisfied some material is required.<sup>52</sup>

Protection orders are contemplated on the Magistrate being prima facie satisfied that Domestic Violence has taken place or is likely to take place against the aggrieved person.<sup>53</sup> To this end, the Magistrate must peruse the evidence supplied by the Applicant alongside the complaint. An order passed without appreciating the evidence provided for substantiation is liable to be set aside.<sup>54</sup>

On careful consideration of the evidence adduced, the following comes to light-

**A. Lack of accompaniment of a Domestic Incident Report with the complaint-**

S. 2 (e) of the Act defines 'domestic incident report' to mean "a report made in the prescribed form on receipt of a complaint of domestic violence from an aggrieved person". The Protection of Women from Domestic Violence Rules, 2005 in Form 1 of Schedule I provide for the form and manner of a Domestic Incident Report. The form is in detailed analytical form where the details of each incident of domestic violence are to be entered with date, time

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<sup>51</sup> S. 18 reads as follows—"Protection Orders.- "The Magistrate may, after giving the aggrieved person and the respondent an opportunity of being heard and on being prima facie satisfied that domestic violence has taken place or is likely to take place, pass a protection order in favour of the aggrieved person and prohibit the respondent from-(a) committing any act of domestic violence; (b) aiding or abetting in the commission of acts of domestic violence; (c) entering the place of employment of the aggrieved person or, if the person aggrieved is a child, its school or any other place frequented by the aggrieved person; (d) attempting to communicate in any form, whatsoever, with the aggrieved person, including personal, oral or written or electronic or telephonic contact; (e) alienating any assets, operating bank lockers or bank accounts used or held or enjoyed by both the parties, jointly by the aggrieved person and the respondent or singly by the respondent, including her stridhan or any other property held either jointly by the parties or separately by them without the leave of the Magistrate; (f) causing violence to the dependants, other relatives or any person who give the aggrieved person assistance from domestic violence; (g) committing any other act as specified in the protection order.

<sup>52</sup> Madhusudan Bhardivaj v. Mamta Bhardwaj, 2009 Cr LJ 3095.

<sup>53</sup> Wp(C).No. 15331 Of 2010 (R).

<sup>54</sup> *Ibid.*

and place of violence and person who caused domestic violence. The purpose is that all allegations made in application must be specific and the Court should not exercise jurisdiction without considering the Domestic Incident Report since it is necessary for the Court to know before issuing any notice to the Respondent as to who caused domestic violence and what was the nature of violence and when it was committed. The Magistrate is required to consider the domestic incident report and go through the contents of the application before issuance of summons.<sup>55</sup>

The legislative intent of providing Domestic Incident Reports is to further clarity as to specific acts of domestic violence alleged in the complaint and prevent misuse of its laws by ensuring certainty. Such specificity acts as an indispensable guard against possible injustice by preventing unwarranted harassment. The intent is further manifest in Form II of Schedule I. The said form clearly mandates that an application to the Magistrate under S. 12 of the Act must be filed along with copy of Domestic Incident Report. Accordingly, on receiving an application under S. 12, the Magistrate is obliged to take into consideration any domestic incident report received by him.<sup>56</sup>

**B. Absence of FIRs pertaining to alleged acts of domestic violence-**

First-information reports, as first version of the incidents, are naturally given their due weight.<sup>57</sup> Though not substantive in nature, they may be used to corroborate its maker or for contradicting him and must be considered with other evidences for deciding whether the case should stand or fall.<sup>58</sup> Great importance is attached to its prompt lodging because the same greatly diminishes the chances of false implication.<sup>59</sup>

Prior to the enactment of the Act, remedy in the nature of conviction under S. 498A of the Indian Penal Code, 1860 was available to complainants alleging domestic violence; provided the same has resulted in 'cruelty' to the wife.<sup>60</sup> However, the failure of the Applicant to resort to the available legal remedy casts a reasonable doubt on the narrative offered by her. Though the Applicant alleges repeated and continued acts of domestic violence, her failure to approach the requisite investigating agency in this regard jeopardizes the veracity of her

<sup>55</sup> Bhupender Singh Mehra vs State Nct Of Delhi & Anr., para 5.

<sup>56</sup> Proviso, S. 12, the PWDV Act

<sup>57</sup> Kalyan v. State of U.P., (2001) 9 SCC 632; See also Ram Ratan v. State of U.P., 2002 Cr LJ 2688 (All).

<sup>58</sup> Kanik Lal Thakur v. State of Bihar, 2003 Cr LJ 375 (Pat); See also Utpal Das v. State of W.B., AIR 2010 SC 1894.

<sup>59</sup> Jagannath Narayan Nikam v. State of Maharashtra, 1995 CR LJ 1432 (Bom).

<sup>60</sup> Balkrishna Pandurang Moghe vs State Of Maharashtra And Ors. II (1998) DMC 569

claims. An educated Anganwari worker proficient to move the Gram Panchayat for maintenance was at liberty to approach the police. Her failure to do so clearly indicates her ulterior motives to now falsely implicate the Respondent in the guise of a victim of domestic violence.

C. Vague and indefinite averments in the complaint.

The Applicant broadly alleges acts of verbal, physical and emotional abuse perpetrated by the Respondent. To this end, specific evidences regarding individual abuses have not been lead. A mere averment in a complaint regarding acts of domestic violence is not sufficient as it not only precludes the Respondent from fully preparing his defence but also increases the chances of concoction and fabrication. Behind failed marriages are not always acts of domestic violence and demands of dowry. Real causes of failure of marriage are rarely admitted in courts as increasingly truth and honesty are becoming rare commodities in averments before the courts.<sup>61</sup>

D. Factum of separate residence.

The Applicant is not entitled to relief under S. 18 in view of her separate residence outside her matrimonial home.<sup>62</sup> Only violence committed by a person while living in the shared household can constitute domestic violence.<sup>63</sup>

**2. THAT A RESIDENCE ORDER IS NOT MAINTAINABLE**

The Respondent presently resides in Bhimpur along with his brother. The Applicant has prayed for direction to Respondent to allow the Applicant and her daughter to live with him in his present residence. In this regard, the Magistrate is empowered by virtue of S.19 to pass a residence order.<sup>64</sup>

<sup>61</sup> Sanjay Bhardwaj and Ors. the State and Anr, CrI.M.C.No. 491/2009, para 6.

<sup>62</sup> In Rakesh Sachdeva and Ors v. State of Jharkhand and Anr Cr. Rev. No. 1088 of 2012.

<sup>63</sup> Vijay Verma vs State Nct Of Delhi & Anr. CrI. M.C. No.3878/2009.

<sup>64</sup> S.19 defines 'residence orders' as –“(1) While disposing of an application under sub- (1) of S. 12, the Magistrate may, on being satisfied that domestic violence has taken place, pass a residence order -(a) restraining the respondent from dispossessing or in any other manner disturbing the possession of the aggrieved person from the shared household, whether or not the respondent has a legal or equitable interest in the shared household;(b) directing the respondent to remove himself from the shared household;(c) restraining the respondent or any of his relatives from entering any portion of the shared household in which the aggrieved person resides;(d) restraining the respondent from alienating or disposing off the shared household or encumbering the same;(e) restraining the respondent from renouncing his rights in the shared household except

The use of the word ‘may’ connotes discretion of the Magistrate to be exercised after due circumspection. The phraseology though intended to further justice empowers the Magistrate with limited power only to be exercised in situations that warrant so. An order of residence must only be passed in urgent circumstances of homelessness.<sup>65</sup> It is only intended to be passed to restrain the respondent from dispossessing and disturbing possession of the Applicant. The Applicant as an Anganwari worker is monetarily secure. By resorting to the PWD Act is seeking to abuse the process of law to satisfy her ulterior motive of acquiring a share in the property of the Respondent. It must be kept in mind that resort of Domestic Violence Act cannot be done to enforce property rights. Resort to Domestic Violence Act can be done only where there is urgent requirement of wife to be maintained and provided residence when because of domestic violence, she had been rendered homeless and she had lost source of maintenance. Domestic Violence Act is not meant to enforce the legal rights of property.<sup>66</sup> Further, the Respondent is willing to resume his marital life with his wife in his new household. The order is unwarranted and would unduly interfere with his personal liberty.

Thus a relief for residence order is not maintainable for the current residence of the Respondent.

### **3. THAT THE PLEA FOR MONETARY RELIEF IS NOT TENABLE**

S. 20(1) of the PWD Act empowers the Magistrate to grant monetary relief to the Applicant.<sup>67</sup> A bare reading of S. 20(1) reveals that an order directing payment of monetary relief must only be made to meet the expenses incurred and losses suffered by the Applicant (or her child) as a result of domestic violence. Only those expenses may be restored that have been suffered by the Applicant consequent to acts of domestic violence. As a corollary, no

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with the leave of the Magistrate; or(f) directing the respondent to secure same level of alternate accommodation for the aggrieved person as enjoyed by her in the shared household or to pay rent for the same, if the circumstances so require. Provided that no order under clause (b) shall be passed against any person who is a woman.

<sup>65</sup> Adil & Ors. v. State & Anr. CRL.M.C. 4159/2009.

<sup>66</sup> *Ibid.*

<sup>67</sup> S. 20(1) of the DV Act reads as follow—“While disposing of an application under sub-section (1) of S. 12, the Magistrate may direct the Respondent to pay monetary relief to meet the expenses incurred and losses suffered by the aggrieved person and any child of the aggrieved person as a result of the domestic violence and such relief may include, but not limited to,-the loss of earnings; the medical expenses; the loss caused due to the destruction, damage or removal of any property from the control of the aggrieved person; and the maintenance for the aggrieved person as well as her children, if any, including an order under or in addition to an order of maintenance under section 125 of the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force.”

such restoration may be granted if the losses suffered have no nexus with the alleged acts of domestic violence.

In the instant case, the acts alleged to have been perpetrated have no nexus with the losses suffered by the Respondent. The Applicant wilfully deserted her matrimonial home. She willingly gave-up on the comforts of a conjugal life. Her alleged monetary losses and purported economic abuses are a result of her own negligence in surrendering her matrimonial home and are not related to the alleged acts of domestic violence.

S. 20(1) further stipulates various factors that determine the quantum of monetary relief liable to be made. Though the reliefs are not exhaustive, by stipulating specific reliefs, the Legislature has empowered the Magistrate to only grant reliefs that are similar to the ones specified.

In view of the same, the Applicant humbly submits-

A. That the Applicant has incurred no losses in earnings.

During her matrimonial stay, the Applicant undertook to perform household chores and was not employed elsewhere. Pursuant to her wilful abandonment, she resided separately only to get employed as an Anganwari worker soon after. The Applicant has thus suffered no losses as a result of alleged acts of domestic violence.

B. That the Applicant has incurred no medical expenses.

The medical expenses incurred broadly relate to the expenditure made during the pregnancy of Applicant. However, the same not being made as a consequent of domestic violence is not liable to be compensated. No other medical expenditure was sustained by the Applicant during and after her stay in her matrimonial home.

C. That the Applicant has suffered from no losses to property.

The Applicant has, at no point of time, been compelled to relinquish whole or part of any of her property whether movable or immovable.

D. That the Applicant is not entitled to maintenance under the PWD Act.

Under personal laws, it is considered an imperative duty of the wife to live with her husband, corresponding to which, it is the husband's obligation to maintain his wife.<sup>68</sup> The husband's obligation to maintain her comes to an end when she leaves him without any good cause or without his consent.<sup>69</sup> The acts of the Applicant have unjustifiably resulted in deprivation of

<sup>68</sup> Diwan, Paras, "Modern Hindu Law", p. 447.

<sup>69</sup> Bammadevara v. Bammadevara, (1928) 55 M.L.J. 242; See also Sidlingappa . Sidava, (1872) 2 Bom. 634; Mutyala v. Mutyala, 1958 A.P. 582.

the matrimonial benefits to the Respondent. The Applicant is not liable to any maintenance on account of her wilful desertion of her matrimonial home.

E. That the Applicant is not entitled to maintenance under S.125, CrPC.

The relevant extract of S. 125, CrPC reads as follows—

“S.125. Order for maintenance of wives, children and parents—(1) If any person having sufficient means neglects or refuses to maintain—(a) his wife, unable to maintain herself.”

The object and scope of S.125 CrPC is to prevent vagrancy by compelling those who are under an obligation to support those who are unable to support themselves.<sup>70</sup> Thus in order to successfully avail an order, the wife must prove her inability to maintain herself. The use of the word ‘may’ in the section makes it clear that the power to grant maintenance is purely discretionary and must be used to meet the social purpose for which it was intended.<sup>71</sup>

The instant case involves the Applicant earning an income as an Anganwari worker. Her ability to maintain herself is manifest from the fact that she has successfully been able to provide education to her daughter till the college level.

If the wife has a private income of her own which is sufficient to keep her from starvation, an order granting her maintenance is bad.<sup>72</sup> Further, the Applicant is residing separately for nearly 27 years. Her residence in segregation away from her matrimonial home without any reasonable ground debars her from claiming maintenance.<sup>73</sup>

The Respondent most humbly pleads that an order for monetary relief may not be passed.

**4. THAT THE PLEA FOR COMPENSATION IS NOT TENABLE**

S. 22 of the Act empowers the Magistrate to “direct the Respondent to pay compensation and damages for the injuries, including mental torture and emotional distress, caused by the acts of domestic violence.”

The facts of the case reveal that the various acts of domestic violence were allegedly perpetrated by the Respondent soon after their marriage in 1983. Assuming such violence to have caused mental torture and emotional distress to the Applicant when they were allegedly committed, by no stretch of imagination can it be surmised that such torture and distress continues at the time of filing of application. On the basis of the facts and circumstances, the Applicant is shown, at the time of application, to be hale and hearty.

<sup>70</sup> Shabana Bano vs Imran Khan S.L.P.(Crl.) No.717 of 2009.

<sup>71</sup> P.T. Ramankutty Achan vs Kalyanikutty AIR 1971 Ker 22.

<sup>72</sup> AIR 1952 Hyd 76.

<sup>73</sup> Deb Narayn Halder v. Anushree Halder 2004 SCC Criminal 164.

##### 5. THAT THE PLEA FOR RETURN OF *STRIDHANA* IS NOT TENABLE

The Respondent most humbly pleads that the plea for return of *stridhana* is not maintainable. The Applicant demands return of her *stridhana* that she allegedly had entrusted to the Respondent in 1985. It requires to be established by the complainant or the prosecution, depending upon the facts and circumstances of the case, as to how and in what manner the entrustment of the '*stridhana*' property or dominion over her '*stridhana*' came to be made to the husband or any other member of the family or the accused person, as the case may be.<sup>74</sup> However, either in the complaint or during the course of evidence no proof regarding such entrustment was brought to the notice of the court. A mere statement, of the complainant that the '*stridhana*' articles were lying in the house, would neither prima facie amount to entrustment of '*stridhana*' articles to the accused nor the misappropriation of the '*stridhana*' articles belonging to the Complainant by the Respondent.<sup>75</sup> The burden to prove current possession of the articles of Stridhan with the Respondent rests on the Applicant.<sup>76</sup>

In the instant case, jewellery, garments and necessary articles of consumption were exchanged as a mark of adoration between the two families. As a traditional *Sikh* wedding, prevalent in the state of Punjab, the union took place according to the various practiced customs. As is the custom, multifarious gifts were exchanged before the marriage in the *Chunni Ceremony*, *Nanki Shak* and during the marriage while performing the *Shaggan* ceremony. A list was consequently prepared of the gifts received.<sup>77</sup> As her exclusive property, the Applicant possessed absolute dominion over the *stridhan* received. The same was consequently carried by the Applicant when she deserted her conjugal home. The *stridhan* that is demanded, thus, is currently in possession with the Applicant who by not producing the list of gifts is seeking to suppress its actual possession.

<sup>74</sup> Smt Rashmi Kumar v. Mahesh Kumar Bhada on S. 306 of the IPC.

<sup>75</sup> Satinder Kaur v. S.D. Singh 2005CriLJ3903.

<sup>76</sup> S. 103, the IE Act.

<sup>77</sup> In this regard, reference may be made to provisions of the Dowry Prohibition (Maintenance of Lists of Presents to the Bride and Bridegroom) Rules, 1985. Rule 2(1) makes it mandatory for the bride to maintain the list of presents which are given to her at the time of the marriage. Rule 2(d) further makes signing on the list obligatory for both the bride and the bridegroom.

**6. THAT THE PLEA FOR SHARE IN PROPERTY IS NOT TENABLE**

Pursuant to filling of an application under S. 12 of the Act, only reliefs contemplated in Chapter IV: 'Procedure for Obtaining Orders or Reliefs' can be claimed. The Magistrate is not empowered to pass an order for which he is not specifically empowered by the Act. A claim for share in property is not tenable by reason of its absence as a relief in the Act. It must be kept in mind that resort of the PWD Act cannot be done to enforce property rights. Resort to the PWD Act can be done only where there is urgent requirement of wife to be maintained and provided residence when because of domestic violence, she had been rendered homeless and she had lost source of maintenance. Domestic Violence Act is not meant to enforce the legal rights of property.<sup>78</sup>

The Applicant pleads for a share in the property of the Respondent for her daughter. Such share is not tenable inasmuch as the property in possession of the Respondent is wholly self-acquired. His right over disposal of such property is purely discretionary. The Applicant, by resorting to the PWD Act is seeking to abuse the process of law to satisfy her ulterior motive of acquiring a share in the property of the Respondent.

The Respondent most humbly pleads that an order for share in property may not be passed.

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<sup>78</sup> Adil & Ors. v. State & Anr. CRL.M.C. 4159/2009.

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**PRAYER**

In light of the issues raised, arguments advanced and cases cited it is most humbly prayed before this Hon'ble Court—

- A. That the Applicant is barred by limitation.
- B. That the Applicant is Estopped from filing an application.
- C. That a *prima face* case has not been made out against the Respondent.
- D. That an Order for Protection u/s 18, an Order for Residence u/s 19, an order for Monetary relief u/s 20 and an Order for compensation u/s 22 may not be granted to the Applicant.
- E. That an Order for return of stridhan and an order for share in property is not tenable.

Or grant such other relief as the court may deem fit in the light of justice, equity and good conscience.

AND FOR THIS ACT OF KINDNESS THE RESPONDENT SHALL DUTY BOUND EVER PRAY

COUNSELS FOR THE RESPONDENT